

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE**

ASHLEY ADAMS, personal representative,)
and Administrator Ad Litem of the Estate of)
TIMOTHY RAY CHOATE, deceased,)
)
Plaintiff,)

v.)

Case No. 3:22-cv-00460-TAV-JEM

CHRISTOPHER CARR, in his personal)
capacity; MICHAEL BLANKENSHIP, in)
his personal capacity; DEVIN DAVIS, in his)
personal capacity; and JEFFREY SHOBE, in)
his personal capacity,)
)
Defendants.)

**MOTION TO STRIKE MOTION TO DISMISS FOR FAILIURE TO COMPLY WITH
ORDER GOVERNING MOTIONS TO DISMISS**

COMES NOW, Plaintiff, Ashley Adams, personal representative and Administrator Ad Litem of the Estate of Timothy Ray Choate, and moves the Court to strike the Motion to Dismiss, Doc. 13, filed by Defendant Michael Blankenship and Defendant Devin Davis. The motion and memorandum, Doc. 14, argue that Plaintiff has failed to plead sufficient facts to state a cognizable claim against Blankenship and Davis. Plaintiff disagrees, but more importantly this Court's *Order Governing Motions to Dismiss*, Doc. 6, mandates that "parties must meet and confer prior to the filing of a motion to dismiss to determine whether it can be avoided," and that the "motion to dismiss must be accompanied by a notice indicating that the parties have conferred to determine whether an amendment could cure a deficient pleading. . . ." Order, Doc. 6. Defendants Blankenship and Davis failed to confer with Plaintiff or her counsel prior to moving to dismiss and, thus, the parties have not conferred regarding whether an amendment could cure anything.

Accordingly, because this Court ordered that the parties confer prior to the filing of motions to dismiss, because Defendants did not confer with Plaintiff or her counsel before filing the subject motion, and because Defendant's motion is plainly of the kind contemplated by the Court's requirement to confer, Plaintiff respectfully submits that the subject motion be stricken; that Plaintiff not be required to respond further to said motion; and that Defendants be ordered to meet and confer with Plaintiff's counsel before filing another motion to dismiss.

Respectfully submitted,

/s/Richard E. Collins

Dan Channing Stanley (TN Bar No. 021002)
Richard E. Collins (TN Bar No. 024368)
STANLEY, KURTZ & COLLINS, PLLC
422 S. Gay Street, Suite 301
Knoxville, TN 37902
Phone: (865) 522-9942
Fax: (865) 522-9945
E-mail: richard@knoxvilleattorney.com

Ursula Bailey (TN Bar No. 020616)
LAW OFFICES OF URSULA BAILEY
422 S. Gay Street, Suite 301
Knoxville, TN 37902
Phone: (865) 522-9942
Fax: (865) 522-9945
E-mail: ubailey65@gmail.com

Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that I have this 20th day of March 2023, filed a true and correct copy of the foregoing electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. The following other parties will be served by regular U.S. mail.

Christopher Carr
1338 Apple Valley Ct.
Cookeville, TN 38501

Jeffrey Shobe
8338 Rocky River Rd.
Rock Island, TN 38681

Parties may access this filing through the Court's electronic filing system.

/s/Richard E. Collins

Richard E. Collins